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DECLARATION OF DAVID CHRISTOPHER

I, David A. Christopher, hereby declare the following:

1. My name is David A. Christopher. I am the Chief Marketing Officer of AT&T's Mobility and Consumer Markets business for AT&T Mobility Services LLC. My background and qualifications are described in my initial Declaration, filed on April 21, 2011.

I. Introduction

2. The purpose of my Declaration is to demonstrate the important ways in which wireless carriers compete at the local level, and to respond to claims that competition in the market for wireless services involves only a handful of "national" carriers. I also will respond to assertions that T-Mobile USA today exerts strong competitive pressure on AT&T. Finally, I will respond to arguments that this transaction threatens competition in the development of mobile wireless applications.

II. Competitive Conditions Vary Significantly Across Local Markets

3. As I explained in my prior Declaration, the wireless industry is extremely competitive. AT&T competes not only with larger carriers such as Verizon, Sprint and T-Mobile USA, but also increasingly with rapidly growing no-contract, all-you-can-eat carriers such as MetroPCS and Leap, and many other successful competitors such as US Cellular, Cincinnati Bell and Cellular South, among others. The strength of AT&T and each of these competitors varies from state to state and locality to locality.

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4. Sprint, which is again growing strongly in terms of total subscribers, is the number-one or -two provider by estimated total subscriber share in many markets.¹ Additionally, there are numerous markets where MetroPCS, Leap, or a regional competitor such as US Cellular is stronger than some of the larger competitors,² or has a double-digit estimated subscriber share.³ Even carriers whose networks are limited to comparatively smaller regions compete with AT&T in offering service plans of nationwide scope and have strong positions in

¹ These include the following DMAs: **[Begin Confidential Information]**

[End Confidential Information].

² Examples include MetroPCS in **[Begin Confidential Information]**

[End Confidential Information]; and Leap, which is estimated to be stronger **[Begin Confidential Information]**

[End Confidential Information]. US Cellular, which has the largest estimated subscriber share in **[Begin Confidential Information]** **[End Confidential Information]**, also has estimated shares greater than several of the larger players in a number of major markets, including **[Begin Confidential Information]**

[End Confidential Information].

³ MetroPCS has at least ten percent (10%) estimated share in **[Begin Confidential Information]**

[End Confidential Information]. Leap has at least ten percent (10%) estimated share in **[Begin Confidential Information]**

[End Confidential Information]. US Cellular has at least ten percent (10%) estimated share in the following DMAs: **[Begin Confidential Information]**

[End Confidential Information].

their local markets. For example, Cellular South, which has a small fraction of AT&T's subscriber base, nevertheless is estimated to have more subscribers than either AT&T, Sprint or Verizon in many of its core Mississippi markets.⁴ Likewise, Cincinnati Bell, operating only in southwestern Ohio and vicinity, has a higher estimated share than [Begin Confidential

Information]

[End Confidential Information] in Cincinnati.

5. Even among different cities within a single state there are often significant variations in the competitive positions of AT&T and its competitors, including, but not limited to, their respective shares of subscribers, market position, retail distribution, network coverage and quality and brand presence. This diversity of competition puts pressure on AT&T to adapt locally. As I explained in my prior Declaration, and as further discussed below, we are organized to do just that.

III. AT&T is Organized to Provide Effective, Individualized Responses to Local-Market Variations and Dynamics

6. Our customers overwhelmingly make their purchasing decisions at the local level where they live, work and shop, and choose among carriers that offer service in that same local area based on a variety of factors that transcend price, including local marketing and advertising, retail store proximity, network quality, coverage and data speeds. As I stated in my prior

Declaration, [Begin Confidential Information]

[End Confidential

Information] of AT&T's gross adds in 2010 came from local retail stores (e.g., company-owned stores, local dealer agent stores and "big box" retail stores); this percentage is essentially

⁴ Cellular South has at least ten percent (10%) estimated share in several [Begin Confidential Information]

Information].

[End Confidential

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identical to the industry-wide figure calculated by a leading third-party research firm.⁵ For this reason, while AT&T makes many important competitive decisions at the national level, AT&T has structured its business to include a significant regional and local component (in addition to headquarters operations). Indeed, this regional and local component becomes increasingly important as competitors like MetroPCS and Leap continue to compete aggressively and enjoy strong growth.

7. AT&T has five separate regions, each with a regional president and regional chief financial officer. Within each region, there are four to seven territories headed by Vice President-General Managers (VP-GMs). Each of AT&T's 27 VP-GMs is responsible for competitive strategy in their respective territories. They track competitive metrics such as churn and subscriber share at the level of individual cities or sub-territories within their areas of responsibility. Based on local conditions, VP-GMs assess the dynamics in their areas and use a variety of price and non-price tools to compete.

A. Local Retail Pricing

8. Competition in every local market takes place across many dimensions beyond just top-line price levels. AT&T generally goes to market with rate plans that are uniform nationally to ensure the consistency of AT&T's offerings (such as national advertising and marketing collateral) and to keep our training and customer care operations simple and consistent. While our rate plans do not often vary across regions, rate plan pricing is only one factor in mobile wireless retail price competition, and retail price competition is only one

⁵ Declaration of David Christopher, Chief Marketing Officer, AT&T Mobility Inc., at ¶ 12 (April 19, 2011) ("Christopher Decl.").

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differentiator among many that our wireless customers take into account when making a purchasing decision. Beyond rate plans, retail prices vary based on price features such as handset pricing, promotional discounts, accessory prices, activation fees, “switcher” credits, rebates and bonus minutes. VP-GMs regularly use a number of these price features to differentiate AT&T from local competition.

1. Local Handset Pricing and Promotions

9. Handset promotions are an important and commonly-used tool for local competitive initiatives, including responding to competitors that may be gaining subscribers from AT&T in a particular local market. VP-GMs have the authority to respond to local conditions by offering local discounts and promotions on different devices than those highlighted in national promotions.

10. Indeed, handset promotions and other handset-related local decisions result in substantial handset pricing variation from national list prices and national handset promotions by market. In every month since July 2009, each of the 27 VP-GM’s average handset price was below the average AT&T headquarters’ recommended list price. And the differences among VP-GM territories have been dramatic: In one recent month, the average discount off the national recommended list price for handsets in the 27 territories ranged from a high of **[Begin Confidential Information]** **[End Confidential Information]** per unit in one area to a low of **[Begin Confidential Information]** **[End Confidential Information]** in another. For example, the AT&T headquarters’ recommended list price for the Nokia 6350 was **[Begin Confidential Information]** **[End Confidential Information]** after rebate in the last six months of 2010. The price for the same handset during the same time period in the New

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York/New Jersey territory was just \$9.99 after rebate. In December 2010, the Motorola Flipside and the Motorola Flipout phones were listed for **[Begin Confidential Information]** **[End Confidential Information]** and **[Begin Confidential Information]** **[End Confidential Information]**, respectively, on the national recommended pricing list, but sold for \$49.99 and \$29.99 in the Pacific Northwest territory during the same month. These differences reflect the significant local variations in competitive conditions and the different choices VP-GMs and marketing teams have made to respond to them.

11. I will describe just a few of the many recent examples of local handset promotions.

- In Seattle, the VP-GM of the Pacific Northwest decided to run a promotion accelerating subscribers' eligibility for a handset upgrade by three months (a multimillion dollar decision) **[Begin Confidential Information]**

[End Confidential Information].

- In Beaumont, Texas, AT&T's South Texas operation offered Android phones for \$50 less than in the rest of the South Texas territory in August through September 2010 in an effort to compete more effectively with **[Begin Confidential Information]** **[End Confidential Information]**. In comparison, the national handset offer at the time was a \$199.99 BlackBerry Torch and a buy-one-get-one-free Pantech messaging device promotion.
- AT&T implemented a free handset promotion during the last holiday season in the Rio Grande Valley, which was targeted at **[Begin Confidential Information]** **[End**

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Confidential Information]. The national holiday promotions were a \$99.99 BlackBerry Torch and buy-one-get-one-free \$199.99 Windows phones.

- Several territories independently ran “Friends and Family” promotions offering \$50 off handsets with a two-year contract. In the Virginia/West Virginia territory, these types of offers **[Begin Confidential Information]**

[End Confidential Information].

- In the Carolinas territory, the VP-GM ran two handset promotions in the month of October 2010, including a “buy one smartphone and get four messaging phones free” offer with waived activation fees for the four messaging devices, and \$50 off all messaging phones and two smartphones. In contrast, the national promotion at the time was a \$199.99 BlackBerry Torch.
- The North Texas territory offered a buy-one-get-one-free 3G smartphone promotion from April through June 2010 that was a direct response to Verizon. The national AT&T promotions at the time were discounts on **[Begin Confidential Information]**

[End Confidential Information] and the

[Begin Confidential Information] **[End Confidential Information]**.

- In the North Central region, the VP-GMs are now offering **[Begin Confidential Information]**

[End Confidential Information]. The headquarters’ recommended price for the same handset is currently **[Begin Confidential Information]**

[End Confidential Information] with a two-year contract.

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In fact, in the last **[Begin Confidential Information]** **[End Confidential Information]** months, the VP-GMs report having run at least 300 distinct local handset promotions or discounts, ranging from approximately **[Begin Confidential Information]**

[End Confidential Information] in others. The decisions to offer these promotions were made by each VP-GM based on the competitive landscape in his or her given area, and differed from the nationally advertised handset promotions running at the same time.

2. Local Price and Credit Promotions

12. VP-GMs use other pricing mechanisms, including credits, rebates, fee waivers and bonus minutes to compete in each territory and locality. **[Begin Confidential Information]**

[End Confidential Information]. **[Begin Highly Confidential Information]**

[End Highly Confidential Information].

13. For example, AT&T's San Francisco operation learned in early May 2011 **[Begin Confidential Information]**

[End Confidential Information]. The VP-GM quickly evaluated a response, consulted with **[Begin Confidential Information]**

[End Confidential Information]. Other examples of local credits and waived activation fees include:

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- In May 2011, the Washington, D.C./Baltimore VP-GM began offering **[Begin Confidential Information]**

[End Confidential Information].

- In April of 2010, the same VP-GM in the Washington, D.C./Baltimore territory waived activation fees at Best Buy in Western Maryland in response to a similar **[Begin Confidential Information]** **[End Confidential Information]** promotion.
- The Desert Southwest VP-GM offered a “Switch your family and get up to \$200” promotion from June through July 2010.
- In the San Diego/Hawaii/Las Vegas territory, the VP-GM helped develop a promotion **[Begin Confidential Information]**
[End Confidential Information] for a free handset up to \$250 with a two-year subscription to AT&T’s U-Verse[®] video service. This promotion ran from November 7, 2010 through March 19, 2011 in the territory and later ran nationally in AT&T’s other U-Verse[®] markets.
- The Virginia/West Virginia VP-GM recently decided to match a Verizon activation fee waiver promotion in the local stores of a national retail chain.
- In the Southeast region, Cellular South recently launched an aggressive “switcher” incentive aimed at AT&T customers. AT&T countered with a direct mail offer to Cellular South customers: switch to AT&T and receive an early termination fee service credit.

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- The AT&T VP-GM for the Desert Southwest territory recently launched an email campaign offering a **[Begin Confidential Information]**

[End Confidential Information] to induce them to switch to AT&T.

14. Holiday and weekend promotions are likewise common, with VP-GMs offering a range of different credits and handset discounts in their territories to boost sales. In the Rocky Mountain territory, for example, AT&T ran a “Black Friday” (i.e., the Friday after Thanksgiving) promotion that offered free Motorola Android devices, free Samsung Quick Messaging Devices and a \$100 credit for switching to AT&T. On the same weekend, the Illinois/Wisconsin territory offered a \$99 Samsung Captivate, and the Carolinas territory allowed customers to convert mail-in rebates to instant rebates. In contrast, the national promotions during the same period were **[Begin Confidential Information]**

[End Confidential Information].

15. While we do not have complete information about our wireless competitors, we believe, based on their conduct in local markets and the local advertising we see, that many of them are similarly organized to AT&T and often tailor their marketing, advertisements and promotions to local conditions. Sprint also appears to engage in advertising and promotions that are very different from market to market. We have seen the following examples which, to our knowledge, were not uniform national advertisements or promotions:

- During the Black Friday weekend in 2010, Sprint ran a one-day “\$50 off all phones” advertisement in Los Angeles, while on the same weekend it ran an advertisement promoting “\$30 off any phone of your choice” in Detroit, a “Free Android phone”

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advertisement in Miami, an “All BlackBerries are Free” advertisement in Harrisburg, Pennsylvania and a Spanish language Quick Messaging Device promotional advertisement in San Jose.

- Very recently Sprint has run print advertisements in the Boulder area with headlines such as “Sprint is #1 in Denver over AT&T” touting a third-party survey that “named Sprint the leader in price and network satisfaction over AT&T in Denver.”
- In Chambersburg, Pennsylvania, Sprint ran a print advertisement in January of this year that read “We offer free activation from January 26th to January 31st only at: 1752 Lincoln Way East Chambersburg PA 17201.”
- In Topeka, Kansas, Sprint ran a print advertisement in February 2011 that read “Topeka, we’re here for you. Now open in your neighborhoods. Stop by today and receive up to \$20 off select devices.”

16. I understand that Sprint’s experts, in opposing this transaction, purport to find that the four largest carriers, including AT&T, do not vary their pricing at the local level, basing their conclusion on a “preliminary survey” of those carriers’ offerings on their respective websites in a sample of 150 zip codes around the country. **[Begin Confidential Information]**

[End

Confidential Information]. Thus, such a survey likely would have missed these aspects of AT&T’s offerings, and the offerings of any other carrier whose website is administered in the same manner.

B. Non-Price Local Competition

17. AT&T customers make purchasing decisions based on a variety of competitive factors other than price, including local marketing and advertising, retail store proximity, network quality, coverage and data speeds. VP-GMs also have substantial influence over these key variables, including the authority to **[Begin Confidential Information]**

[End

Confidential Information].

1. Local Marketing and Advertising Competition

18. Given the scope of our business, national advertising and national messages are important to our marketing strategy, but they cannot be our sole focus. Because marketing personnel at AT&T headquarters are not immersed in the specific day-to-day competitive conditions in each local market, we rely on the VP-GMs to supplement national advertising to respond to specific local market conditions. Each VP-GM decides upon and executes marketing and advertising plans and strategies for each market within his/her area of responsibility, and these plans frequently vary based on the strengths and weaknesses of AT&T and its key competitors in each market. VP-GMs may rely in part on assistance from a marketing team, including a menu of marketing templates for various key messages to execute these strategies. They also can develop customized marketing messages for use in particular cities and areas within their territory.

19. Such local messaging often is driven by the competitors AT&T faces in a particular area, and how effective those competitors are in attacking AT&T's customer base. In South Texas, for example, local marketing strategies are tailored to specific cities:

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- In Beaumont, Texas, **[Begin Confidential Information]** **[End Confidential Information]** has the largest estimated subscriber share by a wide margin. As a result, AT&T's local marketing emphasizes equipment pricing, a newly improved local network and special promotions that are offered in this area **[Begin Confidential Information]** **[End Confidential Information]**.
 - In the Rio Grande Valley, **[Begin Confidential Information]** **[End Confidential Information]** has the second largest estimated subscriber share with more subscribers than AT&T. In this area, AT&T focuses its local marketing efforts on messages emphasizing value, including promotion of our prepaid calling plans and calling plans to Mexico, which are aimed at customers of **[Begin Confidential Information]** **[End Confidential Information]**.
 - In addition to these city-specific messages, AT&T's headquarters marketing and advertising team supported the South Texas VP-GM in a multi-year effort to develop and substantiate specific advertising messages regarding AT&T's network and coverage strengths in the territory. These advertising messages focused on the claims that (a) AT&T has the most coverage in Texas, (b) more customers choose AT&T than anyone else in Texas and (c) no carrier covers more Texans than AT&T.
20. Similar local variations also are seen in our North Florida territory.
- In Tampa, Central Florida and Ft. Myers-Naples, MetroPCS is a significant competitor and is gaining subscriber share. To better compete, the VP-GM has shifted the local message in those areas to emphasize our value offerings, such as AT&T's Family Plans, RolloverTM minutes and prepaid plans.

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- In the Florida Panhandle area, where Verizon is well established, **[Begin Confidential Information]**

[End

Confidential Information].

- In Jacksonville, where **[Begin Confidential Information]** **[End Confidential Information]** pose significant competitive challenges, AT&T's local marketing emphasizes our network quality.

21. Indeed, there is significant variation in our advertising strategy to meet distinct competitive conditions across a wide range of local markets. In 2010, the local market teams, working with the headquarters marketing and advertising team, created *over 1,500* customized advertisements focused on the unique characteristics and competitive threats in particular localities using templates created from AT&T headquarters advertisements. We likewise developed **[Begin Confidential Information]** **[End Confidential Information]** so-called Out-of-Home advertising templates (e.g., billboards), from which we created over **[Begin Confidential Information]** **[End Confidential Information]** customized messages targeted to specific markets. *See, e.g.,* Exhibit A.

22. To take one example, on the same weekend in July 2010, two different markets in Indiana – Evansville and Angola – relied on the same print template to deliver divergent messages to customers. In Evansville, the VP-GM used the template to emphasize its local “fastest 3G network in Evansville” claim, while in Angola the VP-GM promoted a “buy one get one free” handset offer. *See* Exhibit B. In another example, VP-GMs in two separate territories ran advertisements on May 15, 2011 that each contained a different message tailored to local

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competitive conditions. In Connecticut and Massachusetts, the VP-GM advertised two Android phone promotions. In the Indiana-Michigan territory, the VP-GM emphasized a messaging device promotion and AT&T's unlimited mobile-to-mobile calling and texting plans. *See* Exhibit C.

23. VP-GMs also use customized direct mail promotional campaigns with messaging designed to address the particular competitive conditions in targeted cities. In 2010 alone, the VP-GMs conducted over **[Begin Confidential Information]** **[End Confidential Information]** different direct mail campaigns. These local campaigns were used to respond to local competitive offers, to drive sales to new retail locations and to improve customers' perception of AT&T's network by announcing local network service upgrades. In one instance, AT&T used a direct mail campaign promoting BlackBerries at discounted prices to respond to local competitors in the Northeast that were luring a significant number of customers away from AT&T. AT&T launched a regional e-mail campaign offering AT&T customers a \$50-\$100 incremental rebate on new Blackberries to keep them from switching to a competitor.

2. Local Retail Distribution Competition

24. Each VP-GM also is responsible for developing and executing a distribution strategy in his or her territory, subject to management review and approval. **[Begin Highly Confidential Information]**

[End Highly Confidential Information]

[Begin Highly Confidential Information]. These decisions are critically important because **[Begin Highly Confidential Information]**

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[End Highly Confidential Information]. As discussed above and in my prior Declaration, [Begin Confidential Information] [End Confidential Information] of AT&T's gross adds purchase service in a retail location. Ultimately, distribution decisions are made, in large part, based on the need to maximize the effectiveness of AT&T's distribution network in matching up against those of competitors in each market.

25. This dynamic is evident in Miami, Atlanta, and Dallas, among other cities, where AT&T's VP-GMs responded to challenges from MetroPCS, which employs a large number of non-exclusive retail agents, by expanding AT&T GoPhone distribution in areas where MetroPCS appears to be gaining traction. For example, AT&T's VP-GM for South Florida recently opened twenty such stores in MetroPCS-dominated areas of Miami. In Philadelphia, AT&T opened a company-owned retail store to compete with both MetroPCS and Leap.

26. Similarly, to counter competition from Leap in the Rio Grande Valley in Texas, AT&T aggressively expanded distribution in certain neighborhoods with both company-owned retail stores as well as exclusive and non-exclusive dealer relationships in order to target areas where Leap had extensive distribution. In San Antonio, AT&T recently struck a deal to distribute through a leading local grocery chain to improve its reach with value-oriented consumers and constructed a company-owned retail store in a neighborhood in which Leap has a significant presence.

27. In a number of territories across the country – ranging from rural areas of the Southeast and Mid-Atlantic to Los Angeles and South Texas – VP-GMs have pursued a distribution strategy that emphasizes dealers, as opposed to company-owned stores. This

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strategy may be employed for a number of reasons, including taking advantage of sellers who have greater experience with particular consumers; relatively more experience with business-oriented accounts; and strong ties with smaller, rural communities. In each such case, the VP-GM exercised authority to adjust the distribution framework to suit particular local conditions. That occurred as well in parts of the Virginia/West Virginia territory, where the VP-GM has a [Begin Confidential Information]

[End Confidential Information].

In determining where to locate these new dealer outlets, the VP-GM takes into account, among other considerations, the retail locations of other competitors in the area, such as nTelos and US Cellular.

3. Local Network Competition

28. AT&T competes in each local market based on network performance. Our research indicates [Begin Confidential Information]

[End Confidential Information], and further studies

[Begin Confidential Information]

[End Confidential Information].

Network quality varies from territory to territory and locality to locality. Our competitors engage in extensive local network messaging, which touts new technology build-outs and localized network speed and reliability claims. These are important factors in our customers' decision-making process. As a result, AT&T's local network teams in conjunction with the market VP-GM make decisions about where to build additional sites or improve in-building

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penetration, as well as when and where new technologies such as HSPA+ and LTE should be deployed in their areas.

29. Network improvement decisions are guided by competitive considerations specific to the particular market, including assessments of churn to various carriers due to perceived network quality. AT&T conducts local drive tests of each competitor's voice and/or data network -- including MetroPCS, Leap and US Cellular, where they compete -- several times per year to evaluate the relative performance of our network. As an example of the interplay between the VP-GMs and network decisions, the AT&T VP-GM for the Carolinas territory **[Begin Confidential Information]**

[End Confidential Information]. Similarly, the VP-GM for the Ohio/Western Pennsylvania/West Virginia territory **[Begin Confidential Information]**

[End Confidential Information].

30. VP-GMs also must take network coverage, capacity and quality into account when implementing sales and marketing programs. VP-GMs deploy marketing and sales tactics that take advantage of the network quality that exists, while avoiding tactics that could have a negative impact on network performance, especially in capacity constrained areas.

- In the **[Begin Confidential Information]**

[End Confidential Information] for AT&T, the VP-GMs have offered customers incentives, **[Begin Confidential Information]**

[End Confidential Information].⁶

- In other areas, such as [Begin Confidential Information] [End Confidential Information], the VP-GM has been less aggressive with promotions that would result in increased network usage, because of restricted network capacity in the area.
- In Northern California, the VP-GM goes to great expense in order to [Begin Confidential Information]

[End Confidential Information]. Of all the VP-GM territories, Northern California has had the [Begin Confidential Information]

[End Confidential Information].

For instance, the Northern California territory varied from the national promotions run during 2010 by implementing instant rebates on [Begin Confidential Information]

[End Confidential Information] beginning in [Begin Confidential Information] [End Confidential Information] and going through [Begin Confidential Information] [End Confidential Information].

⁶ Indeed, contrary to the claims of some opponents, AT&T no longer markets 2G handsets actively to our post-paid subscribers, and offers only a very limited number of 2G handsets on a prepaid basis. The decision to limit our 2G device offerings in this way was motivated in part by network capacity concerns.

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- In Los Angeles and Chicago, the VP-GMs face aggressive competition from no-contract and prepaid carriers but **[Begin Confidential Information]**

**[End Confidential
Information].**

In contrast to these examples, our network capacity and quality in South Florida has permitted the VP-GM to **[Begin Confidential Information]**

[End

Confidential Information]. For example, the South Florida VP-GM ran at least **[Begin Confidential Information]** **[End Confidential Information]** promotions to attract new customers between November 2009 and March 2010, including instant rebates, “buy one and get four handsets free” and waived activation fees. In the Northern Plains territory, the VP-GM’s input has resulted in a greater **[Begin Confidential Information]**

[End Confidential Information].

31. Beyond working with the local network teams to make decisions about where to build additional capabilities, the VP-GMs must also tailor their competitive strategies to the coverage, capacity and quality of the local network. Thus, in San Francisco, where AT&T has experienced voice-quality challenges, **[Begin Confidential Information]**

[End Confidential Information].

32. Overall, the quality of our network is an important competitive factor. Where our network quality is competitively disadvantageous, we take steps at the local level to improve it, to the extent we can. Because [Begin Confidential Information]

[End Confidential Information], we take steps to communicate our network improvements to customers through local marketing and advertising, and even in direct mail initiatives. Just recently in Washington, D.C. starting in June of 2010, the local market ran a billboard campaign emphasizing AT&T's improving data speed capabilities and reminding customers of its newly-established service on the Metro subway system. This was done [Begin Confidential Information]

[End Confidential Information]. In the Greater Los Angeles market, for example, the VP-GM has undertaken over [Begin Confidential Information] [End Confidential Information] network improvement projects in the last [Begin Confidential Information] [End Confidential Information] months and then targeted customers in the affected areas using in-store neighborhood coverage maps and messaging such as "Here in Diamond Bar, you'll notice improved coverage at the intersection of Grand Avenue and Tonner Canyon Mtwy." These improvement projects and hyper-local awareness campaigns were intended to increase AT&T's subscriber share in a territory where it faces stiff competition from all competing carriers and a perception of poor network quality.

IV. T-Mobile USA Does Not Exert Material Competitive Pressure on AT&T

33. AT&T does monitor T-Mobile USA's competitive activity and occasionally, on a local basis, respond to local promotions through its own targeted promotions; however, as I previously explained, T-Mobile USA does not exert material competitive pressure on AT&T. AT&T's porting data shows **[Begin Confidential Information]**

[End Confidential Information]. Thus, we have not felt a need to respond to these initiatives. Indeed, AT&T still has not responded to T-Mobile USA's recent advertising campaigns that included negative messages about AT&T, nor has AT&T responded to any of T-Mobile USA's significant national consumer pricing and promotions in at least the last two years. **[Begin Confidential Information]**

[End Confidential Information].

34. While T-Mobile USA has targeted AT&T in advertising, and has attempted to use price levers to improve its competitive position recently, these tactics have not materially affected AT&T. To illustrate, from early 2009 until the date of my prior Declaration, T-Mobile USA launched the following offers and initiatives, none of which elicited any change in rate plans or national offers from AT&T:

- March 2009: \$49.99 unlimited talk for loyal customers (22-month subscribers) for a limited duration.
- April 2010: T-Mobile USA reduced its price to add an additional line to \$5.
- March 2010: T-Mobile USA introduced *Even More* data plans (*Even More*: \$60^{5GB} and \$30^{200MB}; *Even More Plus*: \$50^{5GB} and \$20^{200MB}).

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- April-May 2010: T-Mobile USA introduced a data promotion to its voice plan customers: \$40^{5GB} and \$25^{200MB}, plus a mobile broadband-only plan for \$50^{5GB} and \$30^{200MB}.
- June 2010: T-Mobile USA launched a pay-per-MB (\$1.99/MB) feature.
- September 2010: T-Mobile USA introduced its *Kids are Free* promotion, which offered up to three lines added to a family plan for free until January 1, 2012.
- September 2010: T-Mobile USA introduced *Family Mobile*, a no-contract offer through Wal-Mart with unlimited voice and text messaging for \$45 per month.

35. Certain opponents of this transaction claim that two historical pricing moves – T-Mobile USA’s January 2008 and October 2009 unlimited pricing plans – demonstrate that T-Mobile USA is an industry price leader. These claims are inaccurate. As I explained in my prior Declaration, T-Mobile USA was one of the last carriers in the industry to offer unlimited voice plans in 2008, and did so only after MetroPCS, Leap, Sprint, Verizon and AT&T had introduced similar all-you-can-eat voice plans. Likewise, T-Mobile USA’s October 2009 introduction of its *Even More* unlimited pricing plans followed similar moves at lower prices by several other carriers. Sprint, MetroPCS, Leap and Sprint’s no-contract brand Boost Mobile (as well as several MVNOs, such as Virgin Mobile and Tracfone) all launched unlimited offers in the months before T-Mobile USA launched its *Even More* unlimited plans. For example, only a month before T-Mobile USA’s October 2009 price announcement, Sprint added its *Any Mobile*, *Anytime* calling feature to its *Simply Everything* plan at no extra charge, giving customers unlimited data, text and mobile-to-any-mobile calling at a price point \$10 less than T-Mobile

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USA's similar \$79.99 *Even More Plus* plan.⁷ Two months prior to T-Mobile's announcement, MetroPCS and Leap had each lowered its unlimited voice, text and web plans to prices below T-Mobile USA's *Even More* \$50 per month unlimited voice and text plan.⁸ And several months prior to that, Boost Mobile launched a nationwide unlimited voice, text and data plan for \$50 per month, specifically targeting T-Mobile USA customers in its announcements.⁹

36. In January 2010, Verizon reduced the price of its unlimited voice plan, and AT&T matched the offer. AT&T's pricing move was a direct response to Verizon and industry-wide all-you-can-eat downward pricing moves, not to T-Mobile USA in particular. This dynamic has not changed since that time. For instance, T-Mobile USA recently introduced a \$79.99 Unlimited plan in April 2011 that appears to be a second attempt to compete with Sprint's \$69.99 *Simply Everything* plan at the same pricing point T-Mobile USA offered in 2009. AT&T has not responded to T-Mobile USA's \$79.99 Unlimited plan **[Begin Confidential Information]**

[End Confidential Information]. On May 23, 2011, T-Mobile USA launched a new suite of talk and text plans, including unlimited plans, which include varying amounts of data at different prices. Customers can select 200 MB, 2 GB, 5 GB

⁷ Press Release, *Sprint Customers Can Break Free of Calling Circles with Any Mobile, Anytime* (Sep. 10, 2009), http://newsroom.sprint.com/article_display.cfm?article_id=1216; Michael Bettiol, *T-Mobile Formally Announces Its Even More and Even More Plus Plans*, BGR (Oct. 25, 2009), <http://www.bgr.com/2009/10/25/t-mobile-formally-announces-its-even-more-and-even-more-plus-plans/>.

⁸ Press Release, *MetroPCS Announces Enhanced Services That Pack More Value* (Jul. 30, 2009), <http://www.metropcs.com/presscenter/articles/mpcs-news-20090730.aspx>; Press Release, *Leap to Introduce New Unique Nationwide Cricket Monthly Voice and Broadband Products Into Broad National Retail Distribution* (Sep. 16 2009), <http://phx.corporate-ir.net/phoenix.zhtml?c=191722&p=irol-newsArticle&ID=1332367&highlight=>.

⁹ Press Release, *Boost Mobile \$50 'Monthly Unlimited' Plan Saves Customers Up To \$695/Year Compared To T-Mobile \$99.99/Month Prepaid Unlimited Plan* (Feb. 23, 2009) <http://www.easyir.com/easyir/prssrel.do?easyirid=0B08836AE3C8B24E&version=live&prid=628729>.

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or 10 GB of high speed data for \$69.99, \$79.99, \$89.99, and \$119.99, respectively, on individual plans, with higher monthly charges for equivalent data on family plans. AT&T has not responded to these most recent offers either.

37. By contrast, other carriers are putting increasing pressure on AT&T. In some markets, MetroPCS and Leap have been more significant threats than T-Mobile USA for some time. Some of our opponents have argued that MetroPCS and Leap do not compete with AT&T based on a formalistic distinction between pre-paid and post-paid service. The reality is that when our customers choose to purchase either AT&T post-paid service or a competitor's prepaid service, they base their choices on many factors, including price, contractual obligations, the availability of unlimited plans, handset device prices, local promotions and network quality. The ability to pay for wireless service at the end of a billing period is only one of many of those factors that carriers use to differentiate their respective brands.

38. Competition between AT&T and MetroPCS and Leap is shown best by their success in luring away AT&T customers; post-paid customers in particular. MetroPCS and Leap together **[Begin Confidential Information]**

[End Confidential Information]. Indeed, our data show that the **[Begin Confidential Information]**

[End Confidential Information]. As discussed above, low priced all-you-can-eat pricing plans have been incredibly disruptive to the industry and caused a sharp reduction in unlimited plan pricing over the last two years. The no-contract carriers, especially

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MetroPCS and Leap, have also caused us to take direct action. As described in my prior Declaration and in the examples above, AT&T has implemented targeted advertising, launched its first no-contract smartphone, offered new pricing options and increased distribution in areas where these carriers are prevalent. The all-you-can-eat carriers will become even more aggressive and even stronger competitors to AT&T as they continue to couple their signature all-you-can-eat service plans and industry-low prices with up-market offerings such as high-speed data services (including LTE), feature-rich smartphones and nationwide coverage.

39. Lastly, T-Mobile USA consumers who come to AT&T in the transaction will not, as some have suggested, face a price increase. To the contrary, as I mentioned in my previous Declaration, as we have done in other transactions, AT&T plans to allow such consumers to keep their current rate plans. In fact, they will have the option to renew their contracts and, if they wish, to exchange their existing handset for a comparable handset from AT&T's device portfolio, all while keeping their existing plans. We will, of course, incentivize former T-Mobile USA consumers to consider AT&T's plans, pricing and options, because we believe that we have a compelling and industry-leading value proposition to offer. But, in the end, our intention is to allow T-Mobile USA consumers who choose to maintain their current rate plan on their current or comparable device to do so.

V. **AT&T Does Not Discriminate Against Mobile Wireless Applications Developers**

40. Some opponents have argued that AT&T today discriminates against certain mobile wireless applications ("apps") or apps developers and, after the merger, will have a greater incentive to do so in the future. Neither is the case. To the contrary, AT&T customers can access a wide variety of app retailers, including well-known brands like the Android Market,

the Apple App Store, Blackberry App World and Windows Marketplace; numerous independent app stores on the Internet, such as Handango, PocketGear, GetJar, Handmark and MobiHand; as well as AT&T's own app store. Apps developers have an incentive to develop their successful applications for multiple platforms and operating systems in order to achieve the widest distribution possible.

41. AT&T has **[Begin Confidential Information]** **[End Confidential Information]** in the distribution of applications and content. Given the enormous consumer demand for mobile applications, driving away app developers and their applications from AT&T's network would only serve to dissatisfy our customers and encourage them to switch providers.¹⁰ Put simply, in an intensely competitive wireless market, AT&T must maximize the attractiveness of our offers by ensuring that compelling applications are available on our devices.

42. Indeed, far from discriminating against or otherwise harming application developers, AT&T has invested considerable capital and resources to create an industry-leading program – the AT&T Developer Program – the specific mission of which is to give application developers the tools they need to build, test, onboard and certify applications across a range of devices, operating systems and platforms.¹¹ As part of this program, AT&T hosts a substantial

¹⁰ Arguments that our recent experience with the Blackberry Bridge application suggests a desire or ability to discriminate against certain applications are specious. Just before RIM launched its new Playbook tablet and accompanying Bridge app, we learned that the app would enable customers to violate our policy against tethering a smartphone to another device without a tethering rate plan. We requested that RIM remove this app from the AT&T version of the Blackberry App World so that we could work with RIM on a modification to the app that would not violate our wireless terms and conditions. RIM agreed to do so, and we have since reached a resolution such that the Bridge app will soon be available to AT&T's customers.

¹¹ AT&T, *Developer Program*, <http://developer.att.com>. See also Press Release, *AT&T Launches Major Initiative to Bring "Apps to All"* (Jan. 6, 2010), <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=30353>.

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number of webcasts and conferences for application developers, and we have dedicated one of our three “AT&T Foundry” facilities, located in Palo Alto, California, to the development of applications for the consumer market.¹² At this Foundry, app developers can work directly with AT&T personnel and take advantage of a live 4G wireless test bed to develop their applications. In short, the fundamental purpose of this program is to *encourage* application developers to create new, innovative applications that run on the devices and operating systems supported by our network. As a result of our efforts, AT&T has been voted the best carrier by application developers for the last five years.¹³

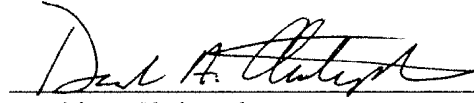
¹² AT&T, *Foundry*, <http://developer.att.com/developer/forward.jsp?passedItemId=5300164>.

¹³ See Christopher Decl. at ¶ 36.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 10, 2011.

Signed:

A handwritten signature in black ink, appearing to read "David A. Christopher", is written over a horizontal line.

David A. Christopher
Chief Marketing Officer
Mobility and Consumer Markets
AT&T Mobility Services LLC

Exhibit A

DC Metro - “Arrival”

Revised 9/21/10

THE PLAYOFF HIGHLIGHTS YOU'VE
ALREADY WATCHED 41 TIMES.
ARRV: IN SECONDS.



*Make the most of your downtime with AT&T's mobile
broadband network. Now even faster in DC.*



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THE WORD GAME THAT WILL LIKELY
REPLACE MEALS AND/OR SLEEP.
ARRV: IN SECONDS.

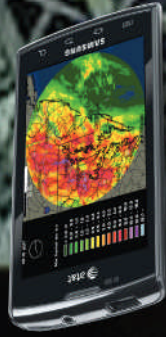


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broadband network. Now even faster in DC.*



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THE WEATHER REPORT THAT WILL
MAKE YOU HAPPY YOU DIDN'T WALK.
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broadband network. Now even faster in DC.*



Rethink Possible

THAT MOVIE CLIP THAT DIDN'T MAKE
IT PAST THE COMPANY FIREWALL.
ARRV: IN SECONDS.



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Exhibit B

Rethink Possible™



Math 101: Two for one equals deal.

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\$49.99

AFTER MAIL-IN REBATE
GET ONE

FREE

AFTER MAIL-IN REBATE
\$50 mail-in rebate AT&T Promotion
Card, with 2-year wireless service
agreement on voice and minimum
\$20/mo data plan required per phone.

PANTECH PURSUIT™

M



BUY ONE FOR
\$19.99

AFTER MAIL-IN REBATE

GET ONE
FREE

AFTER MAIL-IN REBATE
\$50 mail-in rebate AT&T Promotion
Card, with 2-year wireless service
agreement on voice and minimum
\$20/mo data plan required per phone.

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*Offer limited to select Pantech phones. *AT&T imposes a Regulatory Cost Recovery Charge of up to \$1.25 to help defray costs incurred in complying with obligations and charges imposed by State and Federal telecom regulations; State and Federal Universal Service charges; and surcharges for government assessments on AT&T. These fees are not taxes or government-required charges.

Mobile broadband not available in all areas. Coverage is not available in all areas. See coverage map at stores for details. Offer available on select phones. **Limited-time offer.** Other conditions & restrictions apply. See contract & rate plan brochure for details. Subscriber must live & have a mailing address within AT&T's owned wireless network coverage area. Up to \$36 activ. fee applies. Equipment price & avail. may vary by mkt & may not be available from independent retailers. **Phone Return Policy/Early Termination Fee:** None if cancelled in first 30 days; up to \$35 restocking fee may apply to equipment returns; thereafter, \$150 or \$325 depending on device (check att.com/equipment/etf). Agents may impose add'l fees. Subject to change. **Unlimited voice services:** Unlimited voice svcs are provided solely for live dialog between two individuals. No additional discounts are available with unlimited plan. **Offnet Usage:** If your mins of use (including until svcs) on other carriers' networks ("offnet usage") during any two consecutive months or your data use during any month exceed your offnet usage allowance, AT&T may at its option terminate your svc, deny your contd use of other carriers' coverage, or change your plan to one imposing usage charges for offnet usage. Your offnet usage allowance is equal to the lesser of 750 mins or 40% of the Anytime mins incl'd with your plan (data offnet usage allowance is the lesser of 24 MB or 20% of the KB incl'd with your plan). **AT&T Promotion Cards:** PANTECH REVEAL prices before AT&T Promotion Card, with 2-year wireless service agreement on voice & minimum \$20/mo data plan required per phone are \$69.99 and \$49.99 respectively. Pantech Pursuit prices before AT&T Promotion Card, with 2-year wireless service agreement on voice & minimum \$20/mo data plan required per phone are \$99.99 and \$49.99 respectively. Allow 60 days for fulfillment. Card may be used only in the U.S. & is valid for 120 days after issuance date but is not redeemable for cash & cannot be used for cash withdrawal at ATMs or automated gasoline pumps. Card request must be postmarked by 9/23/2010 & you must be a customer for 30 consecutive days to receive card. **Sales Tax** calculated based on price of unactivated equipment. ©2010 AT&T Intellectual Property. Service provided by AT&T Mobility. All rights reserved. AT&T, the AT&T logo and all other marks contained herein are trademarks of AT&T Intellectual Property and/or AT&T affiliated companies. All other marks contained herein are the property of their respective owners.



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wireless service agreement
on voice and minimum
\$20/mo messaging plan
required per phone.
PANTECH EASE™
AT&T Navigator
Text and photo messaging



BUY ONE FOR
\$99
AFTER MAIL-IN REBATE
GET ONE
FREE
AFTER MAIL-IN REBATE
\$30 mail-in rebate AT&T
Promotion Card; with 2-year
wireless service agreement
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\$20/mo messaging plan
required per phone.
PANTECH LINK™
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- **Red Bank** 5020 West Lloyd Expressway,
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- **Madsenville** 30 N Main St.
- **Owensboro** 3633-C Frederica St.

AUTHORIZED RETAILERS

- **Boonville** Southern Wireless, 970 W Main St
- **Evansville** Spaulding Communications, Northfield
Shopping Center, 12500 Hwy. 41 N
- **Spaulding** Communications, North Park Shopping Ctr.,
4600 First Ave.
- **Jasper** InTouch Communications, 251 Baden Strasse
- **Southern Wireless**, 737 3rd Ave., #5
- **Newburgh** VelloCell Wireless, 4222 Bell Rd, Ste 6

- **Princeton, IN** Southern Wireless, 1802 W Broadway
- **Tell City, IN** Southern Wireless, 402 Main St
- **Wadesville, IN** VelloCell Wireless, 7269 Hwy. 66
- **Morganfield** Salon One, 334 N Court St
- **Owensboro** InTouch Communications, 3114 Hwy 54
- **Southern Wireless**, 1650 Starline Dr, Ste G

- Now Open
- Open Sunday


*AT&T imposes a Regulatory Cost Recovery Charge of up to \$1.25 to help defray costs incurred in complying with obligations and charges imposed by State and Federal telecom regulations; State and Federal Universal Service charges; and surcharges for government assessments on AT&T. These fees are not taxes or government-required charges.

Mobile broadband not available in all areas. Coverage is not available in all areas. See coverage map at stores for details. Offer available on select phones. **Limited-time offer.** Other conditions & restrictions apply. See contract & rate plan brochure for details. Subscriber must live & have a mailing addr. within AT&T's owned wireless network coverage area. Up to \$36 activ. fee applies. Equipment price & avail may vary by mkt & may not be available from independent retailers. **Phone Return Policy/Early Termination Fee:** None if cancelled in first 30 days; up to \$35 restocking fee may apply to equipment returns; thereafter \$150 or \$325 depending on device (check att.com/equipmentETF). Agents may impose add'l fees. Subject to change. **Unlimited voice services:** Unltd voice svcs are provided solely for live dialog between two individuals. No additional discounts are available with unlimited plan. **Offnet Usage:** If your mins of use (including unltd svcs) on other carriers' networks ("offnet usage") during any two consecutive months or your data use during any month exceed your offnet usage allowance, AT&T may at its option terminate your svc, deny your contd use of other carriers' coverage, or change your plan to one imposing usage charges for offnet usage. Your offnet usage allowance is equal to the lesser of 750 mins or 40% of the Anytime mins incl'd with your plan (data offnet usage allowance is the lesser of 24 MB or 20% of the KB incl'd with your plan). **AT&T Promotion Cards:** PANTECH LINK prices before AT&T Promotion Card; with 2-year wireless service agreement on voice & minimum \$20/mo messaging plan required per phone are \$39.99 and \$29.99 respectively. Pantech Ease prices before AT&T Promotion Card; with 2-year wireless service agreement on voice & minimum \$20/mo messaging plan required per phone are \$119.99 and \$49.99 respectively. Allow 60 days for fulfillment. Card may be used only in the U.S. & is valid for 120 days after issuance date but is not redeemable for cash & cannot be used for cash withdrawal at ATMs or automated gasoline pumps. Card request must be postmarked by 9/23/2010 & you must be a customer for 30 consecutive days to receive card. **Sales Tax** calculated based on price of unactivated equipment. ©2010 AT&T Intellectual Property. Service provided by AT&T Mobility. All rights reserved. AT&T, the AT&T logo and all other marks contained herein are trademarks of AT&T Intellectual Property and/or AT&T affiliated companies. All other marks contained herein are the property of their respective owners.



Exhibit C


Connecticut/Massachusetts
May 15, 2011



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Indiana/Michigan
May 15, 2011

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plan required.
SAMSUNG FOCUS™
Windows Phone
Brilliant 4" touch screen

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BLACKBERRY® TORCH™
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• **Albion** 3701 Harvey St.,
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5.15 IMI Zodiac